Supreme Court, U.S.
FILED

09 1388 MAY 13 2010

OFFICE OF THE CLERK

No.

IN THE
SUPREME COURT OF THE UNITED STATES

Vera C. Harper on her Own Behalf and as Personal Representative of the Estate of her Husband, Wilson Clark Harper, Deceased,

Petitioner,

vs.

United Services Automobile Association, et. al.

Respondents.

On Petition for Writ of Certiorari to Florida's Fifth District Court of Appeal

PETITION FOR WRIT OF CERTIORARI

Vera C. Harper (pro se)
5512 Old Mill Rd.
Alexandria, VA 22309
(703) 799-4095

I. QUESTIONS PRESENTED FOR REVIEW

1) Did Florida's Fifth District Court of Appeal (which the Florida Supreme Court ruled had exclusive jurisdiction over Petitioner's petitions for writ of prohibition) err, and was Petitioner denied her rights to due process and equal protection under the U.S. and Florida laws and constitutions when Florida's Fifth District Court of Appeal denied, without opinion: 1) a petition for writ of prohibition filed by Petitioner pursuant to Florida Statutes §38.01 and §38,02, which sought a writ of prohibition against a judge from another county who had been assigned to Petitioner's underlying civil case by another judge who had a financial interest in the case, who was a party thereto, and who had previously assigned himself to the case and then recused; and 2) a petition for writ of prohibition filed by Petitioner pursuant to Florida Statutes §38.10 and Florida's Code of Judicial Conduct, Canon 3 E (1), which sought a writ of prohibition against the assigned judge on the grounds that Petitioner feared she would not receive a fair trial because of actions taken by him which indicated prejudice against Petitioner and in favor of the opposing party.

2) Was Petitioner denied due process and equal protection under the law when her two petitions for writ of prohibition, which were filed under original jurisdiction, were denied by Florida's Fifth District Court of Appeal without opinion, leaving Petitioner in the dark as to the legal basis for the denial?

II. INTERESTED PARTIES

Petitioner Vera C. Harper files this petition on her behalf and as personal representative of the estate of her husband, Wilson Clark Harper. Deceased. Mrs. Harper is a resident of Virginia.

Respondent United Services Automobile Association, a/k/a USAA is a Texas reciprocal inter-insurance exchange.

Judge Clayton Simmons is a circuit court judge in Seminole County, Sanford, Florida.

Judge Robert Wohn, Jr. is circuit court judge in Brevard County, Viera, Florida.

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III. OPINIONS BELOW

Justice Clarence Thomas granted an extension until May 14, 2010 to file this petition.

Petitioner seeks review of the following Orders: 1) Order of Florida's Fifth District Court of Appeal, dated December 16, 2009, (at App. 1) denying a petition for writ of prohibition transferred to it by the Florida Supreme Court; 2) Order of Florida's Fifth District Court of Appeal, dated January 21 2010, (at App. 3) denying Petitioner's motion for rehearing; 3) Order of Florida's Fifth District Court of Appeal dated November 23, 2009 (at App. 5) denying petition for writ of prohibition; 4) Order of Florida's Fifth District Court of Appeal dated January 14, 2010 (at App.7) denying motion for rehearing; 5) Order of Florida Supreme Court dated February 5, 2010 (at App. 9) dismissing petition for writ of certiorari/prohibition for lack of jurisdiction; and 6) Order of Florida Supreme Court dated February 5, 2010 (at App.11) dismissing petition for writ of certiorari/ prohibition for lack of jurisdiction.

Petitioner hereby notifies this Court that an Order of the Florida Supreme Court dated December 11, 2009, which is related to this matter, is the subject of a separate petition for writ of certiorari docketed in this Court on May 6, 2010 as Case Number 1347.

IV. JURISDICTION

The Court's jurisdiction is conferred by 28 U.S.C. Sections 1254(1), 1257, 1651(a) and 2101.

V. CONSTITUTIONAL PROVISIONS INVOLVED

U. S. Const. Art III, section 2:

The judicial power shall extend to all Cases, in Law and Equity, arising under the Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; to all Cases affecting Ambassadors, other public Ministers and Consuls; to all Cases of admiralty and maritime Jurisdiction; to Controversies to which the United States shall be a Party; to Controversies between two or more States; between a State and the Citizens of another State; between Citizens of different States; between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects. In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the Supreme Court Shall have original Jurisdiction. In all the other Cases before mentioned. the Supreme Court shall have appellate Jurisdiction, both as to Law and fact, with such Exceptions, and under such Regulations as the Congress shall make.

U. S. Const. Amendment XIV, section 1:

All Persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens and of the State wherein they reside. No State shall make or enforce any law which abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Florida Const. Article V, Section 3(b) (7):

The Supreme Court...[m]ay issue writs of prohibition to courts and all writs necessary to the complete exercise of its jurisdiction.

Florida Const. Article V, Section 4 (b) (3):

A district court of appeal may issue writs of mandamus, certiorari, prohibition, quo warranto and any other writs necessary to the complete exercise of its jurisdiction.

VI. STATEMENT OF THE CASE

The underlying civil action arose as a result of a denial of coverage for a sewer backup claim brought under a sewer backup endorsement to a homeowners insurance policy issued in Florida by Respondent USAA, a Texas reciprocal, to Petitioner Vera C. Harper,

a Virginia resident, and her (now deceased) husband, Wilson C. Harper, a Florida resident.

On February 18, 2005, Mr. and Mrs. Harper, who were both 85, filed their complaint, *pro se*, in Seminole County Circuit Court (Case No. 05-CA-401-15-W) seeking a fair resolution of their unpaid insurance claim. However, instead of having impartial judges assigned to the case, Petitioner later learned that judges who were USAA members had been assigned to her case, or assigned themselves to the case, or assigned other judges to the case.

By keeping the case in the hands of its "member judges" and/or their designees, Respondent USAA has been able to control the case, and Petitioner has been placed in the untenable position of either having to accept a biased judge to preside in her case or having to go through the process of disqualifying the member judges or their designees, thereby further delaying her case and increasing her legal expenses.

When Petitioner attempted, through numerous petitions for writ of prohibition, certiorari and/or mandamus filed with the Florida Supreme Court and/or Florida's Fifth District Court of Appeal, to seek review of the actions by the member judges and their designees below, her petitions were denied.

Because neither Florida's Fifth District Court of Appeal nor the Florida Supreme Court took any action on the extraordinary writs filed by petitioner, the lower

court judges, who Petitioner had previously disqualified, were allowed to do what they wanted, including file bar grievances against Petitioner's Florida Counsel in an effort to deprive Petitioner of legal representation and' force her to abandon her claim.

VII. STATEMENT OF FACTS

The issues before this Court relate to the actions of two Florida Circuit Court judges, Judge Clayton Simmons and Judge Robert Wohn, Jr. as well as to the action (or lack thereof) of the Florida Supreme Court and Florida's Fifth District Court of Appeal when Petitioner filed petitions for writ of prohibition in the Florida Supreme Court and Florida's Fifth District Court of Appeals asking that they issue a writ of prohibition against Judge Wohn, a judge from another county, who had been improperly assigned the case and from whom Petitioner feared she would not receive a fair trial because of actions taken by him which indicated prejudice against Petitioner and in favor of the opposing party.

When the underlying Florida case was first filed in February 2005, it was assigned to Judge Simmons. Approximately a year and a half later, another circuit court judge, Judge Alan Dickey, took over the case. A year after that, Judge Simmons was assigned as the Chief Judge of the judicial circuit.

In June 2008, Petitioner moved to disqualify Judge Dickey on the grounds that he sought to prevent her

from filing her second amended complaint and because she feared she would not receive a fair trial because of prejudice on his part against Petitioner and in favor of the opposing party. When Judge Dickey recused, Judge Simmons, as Chief Judge, appointed Circuit Court Judge Nancy Alley as successor judge on or about July 21, 2008.

Immediately thereafter, Petitioner moved to disqualify Judge Alley on the grounds that she and Judge Dickey worked together in the same division and that she would likely be biased because of that relationship. When Judge Alley denied the motion to disqualify, Petitioner filed a petition for writ of prohibition in Florida's Fifth District Court of Appeal. When Petitioner's Florida counsel advised Judge Alley that a petition for writ of prohibition had been filed against her, she disclosed for the first time that she had a financial interest in Defendant USAA's reciprocal inter-insurance exchange as a member.

However, despite her financial interest in Defendant's reciprocal, Judge Alley continued to act in the case. Moreover, Petitioner's initial petition for writ of prohibition and subsequent petitions for extraordinary writ filed with Florida's Fifth District Court of Appeal were all denied without opinion.

Although Judge Alley ultimately recused herself from the case, she did not do so until January 2009, and, immediately thereafter, filed a bar grievance against Petitioner's Florida Counsel, as her predecessor, Judge Dickey, had done after he was disqualified.

After Judge Alley's recusal, Judge Simmons appointed Circuit Court Judge James Perry as successor judge. However, after presiding in the case for less than two months, Judge Perry was appointed to the Florida Supreme Court.

Sometime between March 4, 2009 and June 23, 2009, Judge Simmons, assigned himself as successor trial judge. When a hearing before Judge Simmons was set for June 23, 2009, Petitioner's Florida counsel objected to Judge Simmons presiding at the hearing on the grounds that Florida's Rules of Judicial Administration (Rule 2.215) did not authorize the chief judge to assign the case to himself.

At the (first) hearing held on June 23, 2009 before Judge Simmons on Defendant's motion for clarification of procedure regarding scheduling of hearing, Petitioner's Florida counsel objected to Judge Simmons appointing himself to the case, on the grounds that the applicable Judicial Administration Rule (Rule 2.215) did not provide authority for the chief judge to assign himself to a case when a previous judge is disqualified.

When Judge Simmons ruled that he did have such authority, Petitioner's Florida counsel asked Judge Simmons if he was a member of Defendant USAA's reciprocal inter-insurance exchange. In response to Petitioner's Florida counsel's question, Judge Simmons disclosed, for the first time, that he was a USAA member and had been one for 35 years.

When Petitioner's Florida counsel advised Judge Simmons that as a member of USAA's reciprocal inter-insurance exchange, and under Florida Statutes §38.01 and §38.02, Judge Simmons not only had a financial interest in the Defendant's reciprocal, but was also a party to the action, the judge agreed to recuse himself from the case.

However, after Judge Simmons recused himself from the case and despite his acknowledged membership and financial interest in Respondent's reciprocal inter-insurance exchange, he continued to act in the case and, the next day, assigned the case to Brevard County Circuit Court Judge Wohn.

Petitioner objected to the assignment on jurisdictional grounds and on October 5, 2009, filed a Petition for Writ of Prohibition in the Florida Supreme Court (Case No. SC09-1835), pursuant to Article V, section 3(b)(7) of Florida's Constitution and pursuant to Rule 9.030(a)(3); Fla. R. App. P.

While the Petition for Writ of Prohibition was pending before the Florida Supreme Court, a hearing was held, over Petitioner's objection, on October 19, 2009, before Judge Wohn in Brevard County Circuit Court on Defendant's motion for partial summary judgement. When Judge Wohn made numerous statements at the hearing indicating a bias in favor of Respondent and/or its counsel and/or prejudice against Petitioner and/or her counsel, Petitioner filed a motion to disqualify against Judge Wohn which he denied on November 3, 2009.

After Judge Wohn denied the motion, Petitioner filed a petition for writ of prohibition in Florida's Fifth District Court of Appeal on November 19, 2009, pursuant to Article V, section 4(b)(3) of Florida's Constitution and pursuant to Rule 9.030(b)(3); Fla. R. App. P., which was denied by Order dated November 23, 2009 (at App. 5). (A subsequently filed motion for rehearing was also denied by order dated January 14, 2010 (at App. 7).

By Order dated December 11, 2009, the Florida Supreme Court transferred the petition for writ of prohibition that Petitioner had previously filed in that Court to the Fifth District Court of Appeal; citing Harvard v. Singletary, 733 So. 2d 1020 (Fla. 1999) as its legal authority for doing so. (NOTE: the transfer of the petition by the Florida Supreme Court to Florida's Fifth District Court of Appeal is the subject of a separate petition for writ of certiorari docketed in this Court on May 6, 2010 as Case Number 1347).

By Order dated December 16, 2009 (at App. 1), Florida's Fifth District Court of Appeal denied the petition for writ of prohibition transferred to it by the Florida Supreme Court. (A subsequently filed motion for rehearing filed in Florida's Fifth District Court of Appeal was also denied by Order dated January 21, 2010 (at App. 3).

After Petitioner's two motions for rehearing were denied by Florida's Fifth District Court of Appeal, Petitioner filed a petition for writ of certiorari/

prohibition with the Florida Supreme Court seeking review of the action taken by the Fifth District Court of Appeal in denying her petitions. The Florida Supreme Court denied the petition by orders dated February 5, 2010 (at App. 9 and at App. 11) on the grounds that it was without authority to consider the matter; citing Stallworth v. Moore, 827 So. 2d 974 (Fla. 2002).

VIII. REASON FOR GRANTING THE PETITION

Petitioner submits that Florida's Fifth District Court of Appeal's action in denying Petitioner's two writs of prohibition was taken in clear contravention of Florida Statutes §38.01, §38.02 and §38.10, and Florida's Code of Judicial Conduct, Canon 3E(1) ,and denied Petitioner due process and equal protection under the U.S. and Florida laws and constitutions.

Florida's Code of Judicial Conduct, Canon 3 E (1) provides in pertinent part that "[a] judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned," and the Commentary thereto provides in pertinent part that " [a] judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification."

Florida Statutes § 38.01 provides as follows:

> **38.01 Disqualification when judge party; effect of attempted judicial acts.**—Every

> judge of this state who appears of record as a party to any cause before him or her shall be disqualified to act therein, and shall forthwith enter an order declaring himself or herself to be disqualified in said cause. Any and all attempted judicial acts by any judge so disqualified in a cause, whether done inadvertently or otherwise, shall be utterly null and void and of no effect. No judge shall be disqualified from sitting in the trial of any suit in which any county or municipal corporation is a party by reason that such judge is a resident or taxpayer within such county or municipal corporation.

Under the organizational structure of Defendant USAA's reciprocal inter-insurance exchange, each member of the reciprocal is both an insurer and an insured, and Judge Simmons, who was a member of Defendant's reciprocal, was a party to the action. Under Fl. St. §38.01, Judge Simmons was required to disqualify himself and his attempt to assign the case to Judge Wohn was null and void and of no effect.

Florida Statute Section 38.02 provides as follows:

> **38.02 Suggestion of disqualification; grounds; proceedings on suggestion and effect.** --In any cause in any of the courts of this state any party to said cause, or any person or corporation interested in the subject matter of such litigation, may at any time before final judgment, if the case be one at law,

and at any time before final decree, if the case be one in chancery, show by suggestion filed in the cause that the judge before whom the cause is pending, or some person related to said judge by consanguinity or affinity within the third degree, is a party thereto, or is interested in the result thereof, or that said judge is related to an attorney or counselor of record in said cause by consanguinity or affinity within the third degree, is a party thereto or is interested in the result thereof, or that said judge is related to an attorney or counselor of record in said cause by consanguinity or affinity within the third degree, or that the judge is a material witness for or against one of the parties to said cause, but such an order shall not be subject to collateral attack. Such suggestion shall be filed in the cause within 30 days after the party filing the suggestion, or the party's attorney, or attorneys, of record, or either of them, learned of such disqualification, otherwise the ground, or grounds, of disqualification shall be taken and considered as waived. If the truth of any suggestion appear from the record in said cause, the said judge shall forthwith enter an order reciting the filing of the suggestion, the grounds of his or her disqualification, and declaring himself or herself to be disqualified in said cause. If the truth of any such suggestion does not appear from the record in said cause, the judge may by order entered therein require the filing in the cause of

> affidavits touching the truth or falsity of such suggestion. If the judge finds that the suggestion is true, he or she shall forthwith enter an order reciting the ground of his or her disqualification and declaring himself or herself disqualified in the cause; if the judge finds that the suggestion is false, he or she shall forthwith enter the order declaring himself or herself so qualified in the cause. Any such order declaring a judge to be disqualified shall not be subject to collateral attack nor shall it be subject to review. Any such order declaring a judge qualified shall not be subject to collateral attack but shall be subject to review by the court having appellate jurisdiction of the cause in connection with which the order was entered.

Not only did Judge Simmons acknowledge a financial interest and recuse himself from the case at the June 23, 2009 hearing, but Petitioner also timely filed a written suggestion of disqualification in the cause. Therefore, it was improper for Judge Simmons to attempt to assign the case to another judge, let alone another judge who was also a USAA member, such as Judge Alley.

Furthermore, Judge Simmons' recusal, in itself, disqualified him from acting further in the case. If a decision had to be made as to who would succeed him, it would have had to be made by another judge and not Judge Simmons, who was disqualified in the case.

Florida Statute Section 38.10 provides as follows:

> **38.10 Disqualification of judge for prejudice; application; affidavits; etc.** - - Whenever a party to an action or proceeding makes and files an affidavit stating fear that he or she will not receive a fair trial in the court where the suit is pending on account of the prejudice of the judge of that court against the applicant or in favor of the adverse party, the judge shall proceed no further, but another judge shall be designated in the manner prescribed by the laws of this state for the substitution of judges for the trial of causes in which the presiding judge is disqualified. Every such affidavit shall state the facts and the reasons for the belief that any such bias or prejudice exists and shall be accompanied by an a certificate of counsel of record that such affidavit and application are made in good faith. However, when any party to any action has suggested the disqualification of a trial judge and an order has been made admitting the disqualification of such judge, and another judge has been assigned and transferred to act in lieu of the judge so held to be disqualified, the judge so assigned and transferred is not disqualified on account of the alleged prejudice against the party making the suggestion in the first instance, or in favor of the adverse party, unless such judge admits and holds that it is then a fact that he or she does not stand fair and impartial between the parties. If such

> judge holds, rules, and adjudges that he or she does stand fair and impartial as between the parties and their respective interests, he or she shall cause such ruling to be entered on the minutes of the court and shall proceed to preside as judge in the pending cause. The ruling of such judge may be assigned as error and may be reviewed as are other rulings of the trial court.

Petitioner timely moved to Disqualify Judge Wohn pursuant to the above statute. Petitioner's motion was properly presented, filed in good faith, and specifically alleged the facts and reasons upon which Petitioner relied. Furthermore, the assignment of Judge Wohn by Judge Simmons, who previously had failed to disclose his USAA membership and who was disqualified to act in the case, reasonably placed Judge Wohn's impartiality in question under Canon 3 E(1) of the Code of Judicial Conduct. Accordingly, Judge Wohn should have disqualified himself, and Florida's Fifth District Court of Appeal erred when it denied Petitioner's petition for writ of prohibition without opinion.

IX. CONCLUSION

Petitioner submits that the actions taken by Florida's Fifth District Court of Appeal in denying Petitioner's two petitions for writ of prohibition without opinion, was a departure from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power, and, for the reasons stated herein, Petitioner requests that this Court find

error by Florida's Fifth District Court of Appeal below and grant her petition.

Petitioner requests oral argument.

Dated May 12, 2010

Respectfully submitted,

Vera C. Harper, on her behalf
and as personal representative
of the Estate of Wilson Clark
Harper, Deceased (petitioner, pro se)
5512 Old Mill Rd.
Alexandria, VA 22309
(703) 799-4095

IN THE DISTRICT COURT OF APPEAL OF
THE STATE OF FLORIDA FIFTH DISTRICT

VERA C. HARPER, ETC.

Petitioner,

v. CASE NO. 5D09-4428

UNITED SERVICES AUTO-
MOBILE ASSOCIATION, ETC.

Respondent.
_____/

DATE: December 16, 2009

BY ORDER OF THE COURT:

ORDERED that the Petition for Writ of Prohibition, transferred to this Court on December 11, 2009, is denied on the merits.

I hereby certify that the foregoing is (a true copy of) the original Court order.

SUSAN WRIGHT, CLERK

BY _____/S/_____ (SEAL)
Deputy Clerk

cc. Hon. Robert Wohn, Jr.
David A. Harper, Esq.
John J. Pappas, Esq. and Janice C. Buchman, Esq.

IN THE DISTRICT COURT OF APPEAL OF
THE STATE OF FLORIDA FIFTH DISTRICT

VERA C. HARPER, ETC.

Petitioner,

v. CASE NO. 5D09-4428

UNITED SERVICES AUTO-
MOBILE ASSOCIATION, ETC.

Respondent.
_____/

DATE: January 21, 2010

BY ORDER OF THE COURT:

ORDERED that Petitioner's Motion for

Rehearing, filed December 31, 2009, is denied.

I hereby certify that the foregoing is (a true copy of) the original Court order.

_____/S/_____

SUSAN WRIGHT, CLERK (SEAL)

cc. David A. Harper, Esq.
John J. Pappas, Esq. and Janice C. Buchman, Esq.

IN THE DISTRICT COURT OF APPEAL OF
THE STATE OF FLORIDA FIFTH DISTRICT

VERA C. HARPER, ETC.

Petitioner,

v. CASE NO. 5D09-4128

UNITED SERVICES AUTO-
MOBILE ASSOCIATION, ETC.

Respondent.
_____/

DATE: November 23, 2009

BY ORDER OF THE COURT:

ORDERED that the Petition for Writ of Prohibition, filed November 19, 2009, is denied on the merits.

I hereby certify that the foregoing is (a true copy of) the original Court order.

_____/S/_____

SUSAN WRIGHT, CLERK (SEAL)

cc. David A. Harper, Esq.
John J. Pappas, Esq. and Janice C. Buchman, Esq.
Hon. Robert Wohn, Jr.

IN THE DISTRICT COURT OF APPEAL OF
THE STATE OF FLORIDA FIFTH DISTRICT

VERA C. HARPER, ETC.

Petitioner,

v. CASE NO. 5D09-4128

UNITED SERVICES AUTO-
MOBILE ASSOCIATION, ETC.

Respondent.
_____/

DATE: January 14, 2010

BY ORDER OF THE COURT:

ORDERED that Petitioner's Motion for

Rehearing, filed December 8, 2009, is denied.

I hereby certify that the foregoing is (a true copy of) the original Court order.

_____/S/_____

SUSAN WRIGHT, CLERK (SEAL)

cc. David A. Harper, Esq.
John J. Pappas, Esq. and Janice C. Buchman, Esq.

Florida Supreme Court Case Docket

Case Number SC10-219 –Closed

VERA C. HARPER, ETC. vs. UNITED SERVICES AUTOMOBILE ASSOCIATION, ETC.

Lower Tribunal Case(s): 5D09-4128, 05-CA-401-15-W

02/15/2010 02:31

Date Docketed	Description	Filed By	Notes
01/29/2010 2011	Notice-Discretionary Juris (Direct Conflict)	PT Vera C. Harper BY: David Anthony Harper 4478890	Filed as Petition For Writ of Certiorari/Prohibition; Treated as Notice-Discretionary Jurisdiction
02/05/2010	Filing Fee $300	2010-1012713 Amount $300	
02/05/2010	Fee paid in Full - $300		

Description (cont.)		Notes (cont.)
02/05/ 2010	Disp- Rev Dism No Juris (Stallworth)	Having determined that this Court is without jurisdiction, this case is hereby dismissed. See Stallworth v. Moore, 827 So. 2d 974 (Fla. 2002). No Motion for rehearing will be entertained by the Court.

Florida Supreme Court Case Docket

Case Number SC10-220 --Closed

VERA C. HARPER, ETC. vs. UNITED SERVICES AUTOMOBILE ASSOCIATION, ETC.

Lower Tribunal Case(s): 5D09-4428, 05-CA-401-15-W

02/15/2010 02:31

Date Docketed	Description	Filed By	Notes
01/29/2012	Notice-Discretionary Juris (Direct Conflict)	PT Vera C. Harper BY: PT David Anthony Harper 4478890	Filed as Petition For Writ of Certiorari/Prohibition; treated as Notice-Discretionary Jurisdiction
02/05/2010	Fee Due $300 but not billed		

Description (cont.)		Notes (cont.)
02/05/ 2010	Disp- Rev Dism No Juris (Stallworth)	Having determined that this Court is without jurisdiction, this Case is hereby dismissed. See Stallworth v. Moore, 327 So. 2d 974 (Fla. 2002). No Motion for rehearing will be entertained by the Court.